

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM MARCH 21, 2012
OPEN SESSION

MINUTES OF MARCH 21, 2012 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN FOSTER CAMPBELL, VICE CHAIR JIMMY FIELD AND COMMISSIONERS LAMBERT BOISSIERE, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of March 21, 2012, convening at 9:14 A.M. and adjourning at 12:34 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Ex. 2 **T-32082** - Louisiana Public Service Commission vs. Travis Coons Trucking (New Iberia, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without LPSC authority on one count; allegedly occurring on or about October 8, 2010.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, dated December 7, 2011, wherein the Carrier agreed to plead guilty and agreed to pay a fine of \$1,000.00, per count, with \$500.00 per count being suspended, Travis Coons Trucking not committing any additional violations within the following 12 months, from the date of the Order issued herein and agreed that the unsuspended portion of the fine and the citation fee, for a total of \$525.00, would be paid within 15 days of the issuance of the Order herein.

Ex. 3 **T-32100** - Louisiana Public Service Commission vs. John Romero dba Romero's Towing & Recovery (Morse, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without LPSC authority; allegedly occurring on or about October 01, 2011.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) Find John Romero d/b/a Romero's Towing & Recovery guilty of operating intrastate without Louisiana Public Service Commission authority on October 1, 2011; 2) Order John Romero d/b/a Romero's Towing & Recovery to pay a fine in the amount of \$1,000 for operating intrastate without LPSC authority, as well as \$25 citation fee, within fifteen days of the issuance of this order; and 3) Order John Romero d/b/a Romero's Towing and Recovery to refund the \$200 collected from Ryan Meaux for the illegal tow be returned to Mr. Meaux within fifteen days of the issuance of an order, and that the Commission be provided with evidence of certified funds having been sent to Mr. Meaux for the refund.

Ex. 4 **T-32114** - Louisiana Public Service Commission vs. Ball Entertainment LLC (Harvey, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended, by operating Intrastate without LPSC authority on one count; allegedly occurring on or about October 8, 2011.

On motion of Commissioner Boissiere, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the ALJ Recommendation and 1) Find Ball Entertainment, LLC guilty of operating intrastate without Louisiana Public Service Commission authority on October 8, 2011; and 2) Order Ball Entertainment, LLC to pay a fine in the amount of \$1,000 for operating intrastate without LPSC authority, as well as \$25 citation fee, within fifteen days of the issuance of this order.

Ex. 5 **T-32230** - Louisiana Public Service Commission vs. Quentin's Towing & Recovery, LLC (Breaux Bridge, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45:161 through 180.1 as amended and General Order dated March 26, 2010, by operating Intrastate without LPSC authority on one count and for exceeding state prescribed rates; allegedly occurring on or about January 10, 2012.

In re: Discussion and possible vote on Stipulated Agreement pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and adopt the agreement between Staff and the Carrier, dated March 6, 2011, wherein the Carrier agreed to plead guilty and agreed to pay a fine of \$1,000.00, per count, with \$500.00 per count being suspended, Quentin's Towing & Recovery, LLC not committing any additional violations within the following 12 months, from the date of the executed stipulated agreement and agreed that the unsuspended portion of the fine and the citation fee, for a total of \$525.00, would be paid within 15 days of the issuance of the Order herein.

Ex. 6 **R-32203** - Louisiana Public Service Commission, ex parte. In re: Discussion on amending General Orders dated March 26, 2010 and November 22, 2011 to address the Consumer Price Index (CPI) biennial rate review as provided for in General Order March 26, 2010 and to address other definitional & rate issues.

In re: Discussion and possible vote on Amended General Order dated March 26, 2010 (amended November 22, 2011).

On motion of Commission Boissiere, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation as read into the record.

Ex. 7 **R-30297** - Louisiana Public Service Commission, ex parte. In re: The exemption of motor carriers of waste from having to prove public convenience and necessity when applying for a common carrier certificate or contract carrier permit, but maintaining the requirement that said carriers register with the Commission and satisfy all rules, regulations and requirements of the Commission, including proof of fitness to operate.

In re: Directive to Staff to re-examine issues presented in R-30297

At the request of Commissioner Holloway.

Commissioner Holloway directed Staff to re-examine the full scope of issues presented in R-30297 as quickly as possible, with the hopes of having a report in the next 30 to 40 days.

Ex. 8 **T-30865** - Environmental Safety & Health Consulting Services, Inc. (Houma, Louisiana), ex parte. In re: Application to convert Contract Carrier Permit No. 1095-B to a common carrier certificate authorizing the transportation of all wastes statewide without limitation.

In re: Possible Executive Session pursuant to La. R.S. 42:17 to discuss litigation strategy.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 9 **T-31316** - Renae G. Stanford, Inc. dba Stanford Truck Line (Iota, Louisiana), ex parte. In re: Application for a Common Carrier Certificate of non-hazardous oilfield waste, non-hazardous industrial solid waste and hazardous waste over irregular routes statewide.

In re: Possible Executive Session pursuant to La. R.S. 42:17 to discuss litigation strategy.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously

adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to come out of Executive Session.

Ex. 10 **U-31407** - Huntington Properties, LLC d/b/a Huntington Water & Sewer Company, ex parte. In re: Request for Application for Rate Increase of water and sewerage.

In re: Discussion and possible vote on ALJ Final Recommendation.

In re: Request for Oral Argument received by Huntington Properties, LLC.

PASSED

Ex. 11 **U-31936** - Pointe Coupee Electric Membership Corporation, ex parte. In re: Application for Approval of an Adjustment in the Retail Rates of Pointe Coupee Electric Membership Corporation.

In re: Discussion and Possible Vote on Uncontested Proposed Stipulated Settlement.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the uncontested proposed stipulated settlement entered at March 12, 2012 stipulation hearing.

Ex. 12 **U-31971** - Entergy Louisiana LLC and Entergy Gulf States Louisiana, LLC, ex parte. In re: Joint Application of Entergy Louisiana, LLC for Approval to Construct Unit 6 at Ninemile Point Station and of Entergy Gulf States Louisiana, LLC for Approval to Participate in a Related Contract for the Purchase of Capacity and Electric Energy, for Cost Recovery and Request for Timely Relief.

In re: Discussion and Possible Vote to Approve Uncontested Stipulated Settlement.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the Stipulated Settlement.

Ex. 13 **U-32031** - Entergy Gulf States Louisiana, L.L.C., ex parte.. In re: Application of Entergy Gulf States Louisiana, L.L.C. for authorization to participate in an MSS-4 contract with Entergy Texas, Inc. for the purchase of capacity and energy from the Carville Energy Center associated with the contract between Entergy Texas, Inc. and Calpine Energy Services, L.P.

In re: Discussion and Possible Vote on Uncontested Stipulated Settlement.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the uncontested stipulated settlement as filed into the record on March 2, 2012 approving EGSL's Power Purchase Agreement with Entergy Texas, Inc. pursuant to MSS-4 of the Entergy System Agreement for fifty percent of the capacity and energy from the Carville Energy Center subject to protective conditions.

Ex. 14 **R-30021** - LPSC, ex parte. In re: Development and Implementation of Rule for Integrated Resource Planning for Electric Utilities.

In re: Discussion and Possible Vote on Proposed IRP Rules.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept Staff's Recommendation and adopt the final IRP rules issued March 2, 2012 with the modifications read into the record.

Commissioner Skrmetta directed Staff to conduct a comparison of the costs after the first IRP cycle against those of traditional mechanisms and to reveal to determine whether an IRP type mechanism should continue into the future.

Ex. 15 **FA-32108** - Louisiana Public Service Commission, ex parte. In re: Request of Lemle & Kelleher, LLP for a Fee Adjustment to increase its budget cap for work performed in Docket No. U-27103 regarding the investigation into the Fuel Adjustment Clause practices of Entergy Gulf States, Inc. and its affiliates.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Campbell and Boissiere concurring and Commissioner Holloway objecting, the Commission voted to accept the ALJ Recommendation and approve a budget cap increase of \$95,481 in legal fees for work performed.

Commissioner Skrmetta directed Staff, in instances where outside counsel or consultant exceed their original bid, to report to the Commission on estimated new costs and justification for such.

Ex. 16 **FA-32111** - Louisiana Public Service Commission, ex parte. In re: Request of Acadian Consulting Group for a Fee Adjustment to increase its budget cap for work performed in Docket No. U-27103 regarding the investigation into the Fuel Adjustment Clause practices of Entergy Gulf States and its affiliates.

On motion of Commissioner Skrmetta, seconded by Commission Campbell, with Commissioners Field and Boissiere concurring, and Commissioner Holloway objecting, the Commission voted to accept the ALJ Recommendation and order the following: 1) That the cap on professional fees made part of the contract awarded to ACG in connection with Docket U-27103 is increased in the amount of \$200,774.20; 2) That ACG shall formally submit to the Commission, in the event it has not already done so, the invoices evidencing the \$130,354.65 in additional fees which ACG filed into the record of this proceeding for services rendered after 2007; and 3) That the Commission Staff shall review, in accordance with customary Commission procedures, all of ACG's submitted and unpaid invoices – certifying, as appropriate, amounts up to, but not exceeding, the new budget cap for professional fees.

Ex. 17 2011 Test Year Review of the Formula Rate Plan of Density Utilities of LA, LLC.

In re: Discussion and possible vote to hire outside consultant.

On motion of Commissioner Field, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to retain the consulting firm of AUS Consultants for a budget of \$35,000 plus expenses at \$4,500, for a total budget not to exceed \$39,500.

Commissioner Skrmetta directed Staff to issue an RFP for engineering services to inspect Density's required improvements.

Ex. 18 Directive to Staff to open a rulemaking docket to establish a standard rate of return on equity for investor-owned electric and gas utilities. This standard will be used as the authorized return for those utilities within 180 days after it is established absent a filing and demonstration by any affected utility that a different rate is warranted. Among other factors the established standard return should take into consideration the following recent developments: stabilization of capital markets, lower interest rates and long-term treasury yields, reduced risk to utilities resulting from advance approval of major capital additions, increased use of riders allowing immediate recovery of expenditures, and the use of securitization to fund storm repairs and cancellation costs. Staff is additionally directed to issue RFPs within 30 days seeking outside consultants and counsel to assist in this docket.

At the request of Commissioner Campbell.

Last month's Ex. 22

PASSED

Ex. 19 1) Reports
2) Resolutions - Implementation of Federal Railroad State Safety Act of 1970
3) Discussions

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously

adopted, the Commission voted to adopt Resolution 2012-02 as read into the record.

On motion of Commissioner Holloway, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to bring this matter back up for reconsideration.

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, with Commissioners Field and Skrmetta concurring and Commissioner Holloway abstaining, the Commission voted to adopt Resolution 2012-02 as read into the record.

Commissioner Skrmetta directed Staff to open a docket to examine natural gas pricing, past, present and future and to further examine what effect gas to liquid technology will have on future natural gas pricing.

Commissioner Campbell directed the utility companies to come back next month to explain their plans for natural gas given its decrease in price. Commissioner Field added that the utilities provide the effect on pricing of exporting natural gas.

Commissioner Holloway directed Staff to hold a technical conference 30 days after comments are received in the net metering docket. The Commission authorized Staff to issue an RFP, if need be, for outside consultant after comments are received and reviewed.

Ex. 20 **X-32236** - Cleco Power LLC, ex parte. In re: Notice of Cleco Power LLC of Intent to Conduct 2012 Request for Proposals for Long-Term Generating Power and/or Purchase Power Contracts, pursuant to the Commission's Market Based Mechanism Order.

In re: Discussion and possible vote to hire outside consultant.

At the request of Commissioner Holloway.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to retain the consulting firm of Exeter Associates, Inc. for a budget of \$64,000 plus expenses at \$5,500 for a total budget not to exceed \$69,500.

Ex. 21 **U-32223** - Cleco Power LLC, ex parte. In re: Application for Certificate of Public Convenience and Necessity for i.) Authorization for Cleco to enter into a proposed purchase power agreement with Cleco Evangeline LLC; ii) Authorization for Cleco to flow-through, in its jurisdictional rates, the charges that it pays under the power purchase agreement and; iii) Expedited treatment under the LPSC's streamlined procedures for limited term purchase power agreements.

In re: Discussion and possible vote on settlement agreement.

At the request of Commissioner Holloway.

Deputy General Counsel Brandon Frey and Outside Consultant Matt Kahal reported on the settlement agreement.

On motion of Commissioner Holloway, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve and certify the Evangeline PPA as prudent, finding it serves the public convenience and necessity and that the PPA is in the public interest. It was further ordered that the Settlement Agreement be adopted as filed.

Ex. 22 Discussion of telephone “slamming” complaints and request for Staff investigation

At the request of Commissioner Campbell.

Commissioner Campbell directed Staff to look into cramming related issues and telecommunications carriers’ third party billing policies.

Ex. 23 **R-32141** - Louisiana Public Service Commission, ex parte. In re: Discussion and possible vote at the December 14, 2011 Business and Executive Session, Proposed General Order regarding the superseding of General Order dated October 11, 2010 and further supplementing General Order

dated May 30, 2008 and General Order dated June 30, 1974, pertaining to Common and Contract Carriers of Passengers and Dispatch Taxicab Carriers under the jurisdiction of the LPSC, establishing rules, standards and registration for vehicles and their operators and further to adopt a Proposed Passengers Bill of Rights.

In Re: Request for reconsideration for the limited purpose of applying the provisions on registration of vehicles and drivers statewide.

At the request of Commissioner Holloway.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to bring this item back up for reconsideration.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to rescind the Commission's vote of February 15, 2012 in this matter only in so far as it regards the applicability of registration of vehicles and drivers solely to the parishes of Orleans, Jefferson, Plaquemines, St. Charles, St. John, St. Tammany and St. Bernard; and to make the vehicle and driver registration requirements only, contained in the order voted on at the Feb 15, 2012 Business and Executive Session applicable statewide and retaining the applicability of the entire order voted on at the Feb 15, 2012 Business and Executive Session to the parishes of Orleans, Jefferson, Plaquemines, St. Charles, St. John, St. Tammany and St. Bernard.

MEETING ADJOURNED

The next Business and Executive Session will be held April 25, 2012 at 9:00 a.m. in Baton Rouge, Louisiana.